

STATE OF TEXAS §
COUNTIES OF ARANSAS §
SAN PATRICIO AND NUECES §
CITY OF ARANSAS PASS §

On this the 2nd day of November, 2009 the City Council of the City of Aransas Pass convened in a Regular Council Meeting being open to the Public at the regular meeting place thereof in the City Hall and notice of said meeting giving the time, place, date and subject hereof having been posted and prescribed by Chapter 551 of the Texas Government Code with the following attendance to wit constituting a quorum.

PRESENT: Tommy Knight, Mayor
Jay Attaway, Mayor Pro Tempore
Phillip Hyatt, Council Member
Karen Mayer, Council Member

ABSENT: Vickie Abrego, Council Member

ADMINISTRATIVE
PERSONNEL PRESENT: Reggie Winters, City Manager
Allen Lawrence, City Attorney
Ada Owens, City Secretary

ADMINISTRATIVE
PERSONNEL ABSENT:

STAFF PRESENT: Bill Haines, Asst. Police Chief
Paul Alvarado, Public Works Director
Frank Truitt, City Inspector
Rickie Kilgore, Fire Chief

OTHERS PRESENT: Ralph & Lu Arcemont, Jim & Alpha Covington, Tencha Keiser, Ann Melton, Jack Chaney/Aransas Co. Commissioner, Jim Troxel/Herald Newspaper, Mark McLiney/Southwest Securities, Ernie & Olivia Torres, Sandy Kubek, Don & Jeanie Brummett, Thomas Champagne/Centerpoint Energy, Bonnie Berger, Jo Ann Biek, Bobby White, Jimmie Nabours, Thomas Tiffin/Naismith Engineering, Michael Cary/Progress Newspaper, Jennifer Thomas, Steve Knight/Tri County EMS, Kiki DeAyala & Mike Patterson/DeAyala Properties, City by the Sea residents: Robert & Elaine Mickler, Jim Roush, Jane Doss, Walter Denshire, Alton Briggs, Jim Rummage, Joe Adams, Don & Pat Grover, Linda Collins, Rose Wilham, La Buena Vida resident: Jeanne Hunte, Bahia Bay resident: Larry Moore

There may have been others present who did not sign in.

ITEM 1. CALL MEETING TO ORDER.

Mayor Knight called the meeting to order at 7:00 p.m. on November 11, 2009.

ITEM 2. INVOCATION AND PLEDGE OF ALLEGIANCE TO THE UNITED STATES FLAG.

Council Member Mayer gave the invocation. Mayor Knight led the Pledge of Allegiance to the United States flag.

ITEM 3. CONSIDER AND ACT ON APPROVAL OF MINUTES OF OCTOBER 5 AND OCTOBER 19, 2009.

Council Member Mayer made the motion to approve the minutes of October 5 and October 19, 2009. Mayor Pro Tem Attaway seconded the motion and the motion carried unanimously.

ITEM 4. CONSIDER AND ACT ON A CONTRACT WITH JIMMY DURHAM TO MAP THE CITY’S WATER DISTRIBUTION SYSTEM.

City Manager Reggie Winters stated the City had contracted with Jimmy Durham (former Public Works Director) to map the City’s sewer system approximately two years ago. He stated he had been talking with Mr. Durham regarding mapping the City’s water system. He stated Mr. Durham indicated he could map the water system in approximately nine months. He stated he would like to contract Mr. Durham to map the water system for no more than \$20,000.00.

Mayor Pro Tem Attaway made the motion to contract with Jimmy Durham to map the

City's water distribution system for no more than \$20,000.00. Council Member Mayer seconded the motion and the motion carried unanimously.

ITEM 5. CONSIDER AND ACT ON REQUEST OF MACK OLIVER TO LEASE LOTS 1 & 2, BLOCK A, CONN BROWN HARBOR (518 BIGELOW)

Bobby Smith, speaking on behalf of Mack Oliver, stated Mr. Oliver wanted to put a Tae Kwon Do school in the building. He stated the main objective was to give children something to do while teaching them martial arts. He stated he had been impressed with the effect of the lessons on his grandchildren.

Council Member Mayer stated Mr. Oliver wanted the same lease conditions that the City gave Conquering Life, Inc. which was the lease at no charge.

Discussion was held regarding Mr. Oliver's status as a nonprofit or 501C3 organization and Mr. Oliver charging a fee for the lessons.

Mr. White stated if the students had the money, they paid for the lessons, but if they did not have the money Mr. Oliver did not charge them a fee.

Mayor Pro Tem Attaway stated Mr. Oliver must have 501C3 status with the Internal Revenue Service. He asked Mr. White did Mr. Oliver have that status?

Mr. White stated yes.

Mayor Pro Tem Attaway stated Mr. Oliver would have to present documentation showing he had a 501C3 corporation and liability insurance before the Council could consider his request for a lease.

Mayor Knight stated the lease terms would state the lease would be at no charge until development started in the Harbor, then Mr. Oliver would have 60 days to vacate the lease property.

Council Member Hyatt made the motion to table Item 5. Mayor Pro Tem Attaway seconded the motion and the motion carried unanimously.

ITEM 6. CONSIDER AND ACT ON REVOKING CONDITIONAL USE PERMIT (ORDINANCE 2009-3965) FOR A KID'S INDOOR AMUSEMENT FACILITY ON LANDBLOCK 540, LOT 4, 5 AND NW 46' OF LOT 6, N. COMMERCIAL ST., ARANSAS PASS, TEXAS.

The City Manager stated the prerequisites for the Conditional Use Permit (CUP) had not been met by Donald Smith and Jennifer Merkle. He stated he had not received proof of liability insurance nor had the building been inspected for fire code violations and occupancy limits. He stated he recommended the CUP be revoked until the conditions were met.

After a short discussion regarding activity on the property, Mayor Pro Tem Attaway made the motion to revoke the Conditional Use Permit (Ordinance 2009-3965) for a kid's indoor amusement facility on Landblock 540, Lot 4, 5 and the NW 46' of Lot 6, N. Commercial Street. Council Member Mayer seconded the motion and the motion carried unanimously.

ITEM 7. CONSIDER AND ACT ON AN ORDINANCE GRANTING TO CENTERPOINT ENERGY RESOURCES CORP., DBA CENTERPOINT ENERGY TEXAS GAS OPERATIONS, THE RIGHT, PRIVILEGE AND FRANCHISE TO CONSTRUCT, INSTALL, EXTEND, REMOVE, REPLACE, ABANDON, OPERATE AND MAINTAIN ITS FACILITIES WITHIN THE PUBLIC RIGHTS-OF-WAY OF THE CITY OF ARANSAS PASS, TEXAS FOR THE TRANSPORTATION, DELIVERY, SALE AND DISTRIBUTION OF NATURAL GAS; CONTAINING OTHER PROVISIONS RELATING TO THE FOREGOING SUBJECT; PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE.

Mayor Pro Tem Attaway stated the City's current franchise fee was 2% and the documentation received from Centerpoint Energy suggests the City approve a 5% franchise fee. He stated the City's citizen's gas bills would increase by 3%, a direct pass-through to anyone that had natural gas service. He stated he approved of the franchise agreement but the City should keep the franchise fee at 2% instead of 5%.

Mayor Knight stated he agreed with Mayor Pro Tem Attaway. He stated the City Manager would have Centerpoint Energy change the franchise fee from 5% to 2% in the franchise agreement and bring it back before the City Council.

Mayor Pro Tem Attaway asked Mr. Champagne was there a deadline on the franchise agreement?

Tom Champagne, Area Manager for Centerpoint Energy stated the current franchise expired in October (2009) and Centerpoint would continue to honor the franchise until a new franchise was in effect, so there was no specific deadline, but it would be best to have an agreement as soon as possible. He stated Centerpoint was attempting to standardize their franchise agreements. He stated an increase in the rate did pass through to the customers. He stated the franchise would be changed (to 2%) and brought back before the City Council.

The City Manager stated he became aware that the City passed an ordinance concerning the depth and location that pipelines and utilities must be buried and he would compare the wording in the ordinance and the franchise agreement to make sure they were the same.

Mayor Pro Tem Attaway made the motion to table Item 7. Council Member Hyatt seconded the motion and the motion carried unanimously.

ITEM 8. **CONSIDER AND ACT ON RESOLUTION 2009-623 – BALLOT FOR PLACE 6 FOR ELECTION OF BOARD OF DIRECTORS, NUECES COUNTY APPRAISAL DISTRICT REGULAR TERM 2010-2011.**

Mayor Knight recommended the Council cast the City's votes for John Price, Port Aransas ISD.

Mayor Pro Tem Attaway made the motion to adopt Resolution 2009-623 and cast the City's votes for John Price, Port Aransas ISD on the ballot for Place 6 for Election of Board of Director, Nueces County Appraisal District regular term 2010-2011. Council Member Mayer seconded the motion and the motion carried unanimously.

ITEM 9. **PRESENTATION BY NAISMITH ENGINEERING REGARDING FORMER JBS PACKING PROPERTY CLEANUP.**

Dave Sullivan with Naismith Engineering stated there was still a sheen getting into the water at the former JBS site. He stated there was a lot of diesel removed over the last two years from the site. He stated a more aggressive solution to the corrective action plan instead of the skimmer type pump, which was a gravity flow type system, was needed. He stated he would suggest a dual-phase pump which would actually draw the material out and, because of that type of recovery, would allow activity on the property to go on as the cleanup proceeded. He stated the complete delineation of the site had been completed; but three more wells needed to be put in and contamination had crept to the sides a little bit. He stated there had been three different walls installed in the last ten years, one by JBS and one by a previous contractor. He stated Naismith Engineering planned to use a more aggressive approach to resolving the corrective action plan. He stated Naismith Engineering would work with the City and any future tenant on the property.

Mayor Knight stated there was a possible tenant that might be on site in January (2010).

Mr. Sullivan stated a customized agreement would be necessary to specify how the tenant would use the property; the activity by the City; and make sure certain responsibilities were identified. He stated he would meet with the City Attorney. He stated the type of remediation was mainly using wells, that was why there could be activity on the site.

Discussion was held on negotiating Naismith Engineering's fees for the project and future plans for cleanup.

ITEM 10. **PRESENTATION BY NAISMITH ENGINEERING REGARDING AN ANNEXATION PLAN.**

David Underbrink with Naismith Engineering sated the proposed annexation line ran north, up Highway 35 to the ETJ line, followed the ETJ line back to the shoreline and back the down the shoreline to the current city limit line which was out in the water. He stated, basically, anything east of Highway 35 was included in the annexation plan including City by the Sea, La Buena Vida, Islands of Rockport and vacant land. He stated the plan did not include the Degussa property because the City had an Industrial Agreement with Degussa which they paid in lieu of taxes. He stated the annexation would be a three-year process. He stated the City would be required to provide City services. He stated a finance plan was included in the annexation plan showing how the City could pay for the required services. He stated the property values in the present plan were for 2008

ITEM 11. **CONSIDER AND ACT ON PRESENTATION BY NAISMITH ENGINEERING CONCERNING ANNEXATION PLAN.**

Mayor Pro Tem Attaway made the motion to instruct the City Attorney to prepare a

Resolution to adopt the annexation plan as presented. Council Member Mayer seconded the motion and the motion carried unanimously.

ITEM 12. CITIZEN’S COMMENTS.

A request was made to put the annexation plan on the City’s website to which the City Attorney stated that would be done when the City Council adopted the Resolution to proceed with the annexation plan. After discussion Mr. Underbrink offered to email the annexation plan to anyone who requested it.

Aransas County Commissioner Jack Cheaney asked for a timeframe on the annexation plan.

Residents in the proposed annexation area voiced their opposition to the annexation plan.

Discussion was held on fire stations, EMS, utility services and negativity towards the annexation plan.

Sandy Kubeck thanked the City for the Halloween Haunted House.

The City Attorney gave an update on the class action suit against internet travel sites not paying the full Hotel/Motel tax rate. He stated the jury had found for the Cities.

The area Fire Departments were thanked for fighting the fire on the south side of the City.

Commissioner Cheaney expressed his appreciation for the Aransas Pass Fire Department’s cooperation in fighting area fires outside the Aransas Pass city limits, to which Mayor Knight reciprocated and thanked the area fire departments for working with the Aransas Pass Fire Department.

ITEM 13. ADJOURNMENT OF MEETING.

Council Member Mayer made the motion to adjourn the meeting. Mayor Pro Tem Attaway seconded the motion and the motion carried unanimously.

Mayor Knight adjourned the meeting at 7:45 p.m.

Tommy Knight, Mayor

ATTEST:

Ada Owens, City Secretary